



NEW YORK STATE SENATOR

Brian X. Foley

Senator Foley Protects Public from Drunk Drivers

BRIAN X. FOLEY June 9, 2010

| ISSUE: **CRIME, DRUNK DRIVING**

Senator Brian X. Foley (D – Blue Point) sponsored legislation (S5495) that would allow courts to be informed of past driving offenses when hearing cases involving drunk or impaired driving.

First and second driving while ability impaired (DWAI) offenses are considered traffic infractions and a third offense within a ten year time period elevates the offense to a misdemeanor. If an individual with prior DWAI convictions is later charged with driving while intoxicated (DWI), the prior convictions are not generally made known to the court. In cases where an individual is charged with DWI and the charged is lessened by the court to a DWAI, there is currently no way in which the prosecutor can elevate the offense to a misdemeanor because the defendant's prior driving history cannot be brought into the case. This legislation will allow the prosecutor to provide the court with the information about the previous offenses in a way that would not taint the jury.

“The court being able to see the full picture of a driver's history for purposes of sentencing is critically important,” said Senator Foley. “This is particularly true when it comes to drunk driving. It is estimated that first time drunk driving offenders have driven drunk an average of 87 times prior to that first arrest. By allowing the court to be presented with all

information about driving history, once it becomes relevant, we will ensure that offenders are dealt with properly and are not given a free pass because the initial criminal charge was higher than the charges on which the defendant was previously convicted. This will help to keep more repeat drunk driving offenders off of our roads and protect the safety of other motorists.”

The Assembly same-as (A7959) is currently in the Assembly Codes Committee. If signed into law, this legislation will take effect on the first day of November following it being signed. It will apply to all criminal drunk driving cases, regardless of when they were commenced.

“I was glad to see this legislation pass in the Senate last week and I hope that the Assembly will take swift action to pass this crucial legislation,” said Senator Foley.